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12 IN THE UNITED STATES DISTRICT COURT  
13 FOR THE DISTRICT OF NEVADA

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MARY KAY PECK, an individual, ) 2:09-CV-00872-JCM(GWF)  
Plaintiff, )  
-vs- )  
THE CITY OF HENDERSON, a municipality; )  
JAMES B. GIBSON, an individual; JACK )  
CLARK, an individual; ANDY HAFEN, an )  
individual; STEVE KIRK, an individual; GERRI )  
SCHRODER, an individual; and DOES 1 through )  
25. )  
Defendants. )

**REQUEST FOR RULING, OR IN  
THE ALTERNATIVE SET  
A HEARING, ON DEFENDANTS'  
MOTION FOR JUDGMENT ON  
THE PLEADINGS**

20 COMES NOW, Defendant City of Henderson and the above-named individual Defendants  
21 James B. Gibson, Jack Clark, Andy Hafen, Steve Kirk and Gerri Schroder, by and through their  
22 attorney William E. Cooper, Esq., and respectfully requests the court to issue a ruling, or in the  
23 alternative set a hearing, on Defendants' Motion for Judgment on the Pleadings, which was filed  
24 with the court on June 25, 2009. The motion has been fully briefed by the parties and is awaiting  
25 determination by the court.

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This request is supported by the Declaration of William E. Cooper, Esq. attached hereto as Exhibit "A" and incorporated herein.

Dated this 13<sup>th</sup> day of August, 2009.

## WILLIAM E. COOPER LAW OFFICES

By /s/  
William E. Cooper, Esq.  
601 E. Bridger Avenue  
Las Vegas, Nevada 89101  
Attorney for Defendants

1                   **CERTIFICATE OF SERVICE**

2       I hereby certify that a true and correct copy of the **REQUEST FOR RULING, OR IN THE**  
3       **ALTERNATIVE SET A HEARING, ON DEFENDANTS' MOTION FOR JUDGMENT ON**  
4       **THE PLEADINGS**, has been forwarded to the following parties on this 13<sup>th</sup> day of August, 2009.

5                   *Via Electronic Court Mail Delivery System*  
6                   Norman H. Kirshman  
7                   Law Offices of Norman Kirshman  
8                   3800 Howard Hughes Parkway, Suite 500  
9                   Las Vegas, Nevada 89169

10                  By: \_\_\_\_\_ /s/  
11                  Diedre N. Hoffman, an employee  
12                  of William E. Cooper Law Offices

# **EXHIBIT A**

1                           **DECLARATION OF WILLIAM E. COOPER, ESQ.**  
2                           **IN SUPPORT OF REQUEST FOR RULING, OR IN THE**  
3                           **ALTERNATIVE SET A HEARING, ON DEFENDANTS' MOTION**  
4                           **FOR JUDGMENT ON THE PLEADINGS**

5                           WILLIAM E. COOPER, ESQ., declares:

6         1.       I am an attorney licensed to practice law in the State of Nevada, Nevada State Bar No.  
7         2213, and represent City of Henderson and the individual Defendants, James B. Gibson, Jack Clark,  
8         Andy Hafen, Steve Kirk and Gerri Schroder in the case entitled: *Peck v. City of Henderson, et al.*,  
9         Case No. 2:09-CV-00872-JCM(GWF), filed in the United States District Court, for the District of  
Nevada.

10       2.       Pending before the court is Defendants' Motion for Judgment on the Pleadings which  
11      was filed with the court on June 25, 2009. The motion has been fully briefed by the parties and is  
12      awaiting determination by the court.

13       3.       I have filed an Emergency Motion for a Stay of Discovery pending a determination  
14      by the court on Defendants' Rule 12(c) Motion for Judgment on the Pleadings. The individual  
15      Defendants are present and former government officials, who at all relevant times were elected  
16      members of the City of Henderson City Council. Under applicable case law set out in Defendants'  
17      Rule 12(c) motion, the individual Defendants are protected from suit by the doctrine of qualified  
18      immunity. The individual Defendants should not be forced to engage in the litigation process or  
19      discovery until their qualified immunity status is determined by the court.

20       4.       Based upon the foregoing, Defendants respectfully request the court to issue a ruling,  
21      or in the alternative set a hearing, on Defendants' Motion for Judgment on the Pleadings.

22                           Executed this 13 day of August, 2009, at Las Vegas, Nevada.

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24                           WILLIAM E. COOPER, ESQ.